

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MILK STUDIOS, LLC,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD.;
SAMSUNG ELECTRONICS AMERICA, INC.,
and SAMSUNG TELECOMMUNICATIONS
AMERICA, LLC,

Defendants.

X

Civil Action No.: 14-cv-09362-PAC

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**DECLARATION OF SCOTT M.
SMEDRESMAN IN SUPPORT OF
PLAINTIFF MILK STUDIOS,
LLC'S MOTION FOR AN
EXPEDITED TRIAL ON THE
MERITS**

SCOTT M. SMEDRESMAN hereby declares, pursuant to 28 U. S. C. § 1746, as follows:

1. I am an associate with the law firm of McCarter & English, LLP, attorneys for plaintiff Milk Studios, LLC ("Milk"), in the above matter and a member of the bar of the State of New York and this Court.

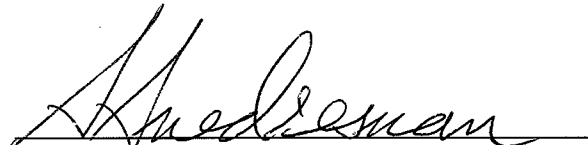
2. I submit this Declaration in support of Milk's Motion for an Expedited Trial on the Merits.

3. On January 7, 2015, I conducted a search on Google for the term "milk." The search results listed a link to "Samsung's Milk Music: The Next Big Thing in Music" (www.samsung.com/us/showcase/milk) as the fourth result on page 1 and "Milk Music™ - Android Apps on Google Play" (<https://play.google.com/store/apps/details?id=com.samsung.mdl.radio&hl=en>) as the first result on page 2. Attached as Exhibit A is a true and correct copy of the first through third pages of the search results for a search of "Milk" conducted on January 7, 2015 using the google.com website.

4. Attached as Exhibit B are a true and correct copy of pages 1-4, and 25 of a study entitled Google Organic CTR Study conducted by Advanced Web Ranking in 2014 stating that Google users have a 71% chance of clicking on a search result hit on the first page of results, with only a 5.6% chance of clicking on a hit returned on the second or third page of results.

5. Attached as Exhibit C are true and correct copy of pages 1-6, 15-16 and 32 of a study entitled "Search Engine Optimization: What Drives Organic Traffic to Retail Sites" published in March 2014 by the Department of Business Economics and Public Policy, Kelley School of Business, Indiana University, stating that the future ranking or position of a company's website in search results will improve as search engine users continue to click on the company's website being returned in search results.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 7, 2015.



Scott M. Smedresman